

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

KELLY L. FOUTCH, administrator of the  
Estate of RUSSELL TED FOUTCH,  
deceased,

Plaintiff,

v.

TURN KEY HEALTH, LLC d/b/a TURN  
KEY MEDICAL, and TURN KEY; CREEK  
COUNTY PUBLIC FACILITIES  
AUTHORITY; JANE DOE NURSE I;  
JANE DOE NURSE II; and JOHN/JANE  
DOES III-X,

Defendants.

Case No. 17-CV-431-GKF-JFJ

**JUDGMENT OF DISMISSAL WITHOUT PREJUDICE**

In accordance with the court's Order [Doc. 92] of February 22, 2019, which conditionally granted plaintiff's Motion to Dismiss All Remaining Defendants without Prejudice pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, and the Notice of Plaintiff's Acceptance of Conditions [Doc. 94], the court hereby enters judgment as follows:

IT IS ORDERED, ADJUDGED, AND DECREED that all remaining claims asserted in this action are dismissed without prejudice; and

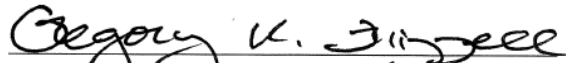
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, if plaintiff elects to file a subsequent action based on or including the same claim(s) against the same defendant, the following conditions shall apply:

1. Plaintiff must file the subsequent action no later than February 28, 2020;
2. In the event the subsequent action is filed in or removed to the United States District Court for the Northern District of Oklahoma, the action shall be reassigned to the

undersigned for purposes of judicial economy, as this court has extensive knowledge and experience with this case;

3. The parties in the subsequent action may utilize all discovery conducted and obtained in this case, subject to the court's rulings on use and admissibility, and no duplicative discovery shall be permitted;
4. Plaintiff may assert only the current claims against the current defendant, except that plaintiff may seek leave of court to add other claims or defendants for good cause;
5. Any taxable costs incurred by defendant in this action shall be taxed against plaintiff in the subsequent action in the event defendant prevails; and
6. At the end of the subsequent action, defendant may seek reimbursement from plaintiff for a reasonable amount of any duplicative attorneys' fees or expenses incurred by defendant as a result of plaintiff's voluntary dismissal and refiling.

ENTERED this 28th day of February, 2019.

  
GREGORY K. FRIZZELL, CHIEF JUDGE